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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
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Fiftieth session
Item 12 (c) (iii) and (e) (i)
of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED

INTERNATIONAL PEACE AND SECURITY AS AN ESSENTIAL CONDITION FOR THE ENJOYMENT OF HUMAN RIGHTS, ABOVE ALL THE RIGHT TO LIFE

ADVERSE CONSEQUENCES OF THE TRANSFER OF ARMS AND ILLICIT TRAFFICKING IN ARMS ON THE ENJOYMENT OF HUMAN RIGHTS

Note by the Secretariat

1. At its forty-ninth session, in its resolution 1997/36, the Sub-Commission decided to authorize Ms. Clemencia Forero Ucros to prepare, without financial implications, a working paper, in the context of human rights and humanitarian norms, assessing the utility, scope and structure of a study on weapons of mass destruction or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering.

2. In its resolution 1997/37, the Sub-Commission decided to authorize the inclusion of the question of the illicit transfer of arms in the preliminary document concerning a study in the context of human rights and humanitarian norms, on weapons of mass destruction or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering, to be submitted to the Sub-Commission at its fiftieth session.

3. The Secretariat was informed that Ms. Forero has been unable to prepare a working paper for the fiftieth session of the Sub-Commission

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Item 12 (c) (ii) of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED

REVIEW OF ISSUES NOT PREVIOUSLY THE SUBJECT OF STUDIES BUT WHICH THE SUB-COMMISSION HAS DECIDED TO EXAMINE

TERRORISM AND HUMAN RIGHTS

Note by the Secretariat

1. In its resolution 1997/39, the Sub-Commission, having welcomed the working paper on the subject of human rights and terrorism submitted by Ms. Kalliopi Koufa in accordance with Sub-Commission resolution 1996/20 (E/CN.4/Sub.2/1997/28), recommended that the Commission on Human Rights authorize the appointment of Ms. Koufa as Special Rapporteur to conduct a comprehensive study on the subject.

2. At its fifty-fourth session, in its decision 1998/107, the Commission decided to approve this appointment. The Commission further requested the Special Rapporteur to submit her preliminary report to the Sub-Commission at its fiftieth session, a progress report at its fifty-first session and a final report at its fifty-second session.

3. The Special Rapporteur has informed the Secretariat that, owing to the insufficient time between the confirmation of her appointment by the Commission on Human Rights (17 April 1998) and the deadline for submitting Sub-Commission documents (11 May 1998), she has unfortunately been unable to prepare a preliminary report for the fiftieth session of the Sub-Commission.

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Item 12 of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED

Views of the six human rights treaty bodies on the Preliminary Conclusions of the International Law Commission

Report of the Secretary-General

1. At its forty-ninth session, the Sub-Commission adopted resolution 1997/41 in which it requested the Secretary-General to bring the Preliminary Conclusions of the International Law Commission on reservations to normative multilateral treaties including human rights treaties, to the attention of the six human rights treaty bodies, and to ask them to transmit their views thereon to the ILC and the Sub-Commission. The present report is submitted in accordance with that request.

2. The International Law Commission adopted Preliminary Conclusions on reservations to normative multilateral treaties including human rights treaties at its forty-ninth session (12 May to 18 July 1997) (A/52/10, para. 157 et seq.). By letter of 24 November 1997, Mr. Alain Pellet, Chairman of the International Law Commission and ILC Special Rapporteur on the issue of reservations to treaties, transmitted to the Human Rights Committee the text of the ILC's Preliminary Conclusions for information and comments. At its sixty-second session (23 March to 9 April 1998), the Human Rights Committee

took note of the ILC's Preliminary Conclusions, discussing them in closed session in the light of its own general comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the International Covenant on Civil and Political Rights or the Optional Protocols thereto. The Committee undertook to study the preliminary conclusions more carefully and to formulate comments at a later stage. It expressed concern about the views expressed by the ILC in paragraph 12 of its Preliminary Conclusions, in which it "emphasizes that the above conclusions are without prejudice to the practices and rules developed by monitoring bodies within regional contexts". In this connection, the Committee considered that regional monitoring bodies are not the only intergovernmental institutions which participate in and contribute to the development of practices and rules. Universal monitoring bodies, such as the Human Rights Committee, play no less important a role in the process by which such practices and rules develop; the Committee is therefore entitled to participate in and contribute to such development. In this context the Committee stressed that the proposition enunciated by the Commission in paragraph 10 of the Provisional Conclusions is subject to modification as practices and rules developed by universal and regional monitoring bodies gain general acceptance. The Committee so informed the ILC by letter dated 9 April 1998. At its sixty-third session in July 1998 the Committee shall continue its consideration of the ILC's Preliminary Conclusions.

3. The Preliminary Conclusions were similarly brought to the attention of the other committees, which are in the process of examining their implications. At the 9th meeting of persons chairing the human rights treaty bodies, held at Geneva in February 1998, the chairpersons considered the ILC's Preliminary Conclusions and drew attention to the emphasis attached in the Vienna Declaration and Programme of Action to the importance of limiting the number and extent of reservations to human rights treaties and welcomed the recognition contained in the text that treaty monitoring bodies have an important competence in relation to reservations. They considered, however, that the Preliminary Conclusions were unduly restrictive in other respects and did not accord sufficient attention to the fact that human rights treaties, by virtue of their subject-matter and the role they recognize to individuals, cannot be placed on precisely the same footing as other treaties with different characteristics.

4. The chairpersons believe that the capacity of a monitoring body to perform its function of determining the scope of the provisions of the relevant convention cannot be performed effectively if it is precluded from exercising a similar function in relation to reservations. They recall the two general recommendations adopted by the Committee on the Elimination of Discrimination against Women and note the proposal by that Committee to adopt a further recommendation on the subject in conjunction with the fiftieth anniversary of the Universal Declaration of Human Rights and express their firm support for the approach reflected in general comment No. 24 adopted by the Human Rights Committee.

UNITED NATIONS **E**

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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTIONS 8 (XXIII)

Letter dated 25 May 1998 from the Permanent Representative of the Azerbaijan Republic to the United Nations Office at Geneva, addressed to the Secretariat of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

I have the honour to transmit herewith the text of the Decree of the President of the Azerbaijan Republic on the Genocide of the Azerbaijanis.

I would be grateful if you could circulate the present letter and the above-mentioned Decree as an official document of the fiftieth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities under item 2 of the provisional agenda.

(Signed) Sima EIVAZOVA
Ambassador

Annex

DECREE OF THE PRESIDENT OF THE AZERBAIJAN REPUBLIC
ON THE GENOCIDE OF THE AZERBAIJANIS

Azerbaijan's attainment of independence has made it possible to recreate an objective picture of our people's historical past. Truths kept secret and not allowed to be disclosed for long years are being revealed, and the real nature of facts that were falsified at the time is becoming apparent.

The genocide that has been repeatedly committed against the Azerbaijani people and was for a long time not given a proper political and legal assessment is one of these unopened pages of history.

The dismemberment of the Azerbaijani people and the division of our historical lands began with the treaties of Gyulistan and Turkmanchai, signed in 1813 and 1828. The national tragedy of the divided Azerbaijani people continued with the occupation of their lands. As a result of the implementation of this policy, a very rapid mass resettlement of Armenians in Azerbaijani lands took place. The policy of genocide became an integral part of the occupation of Azerbaijani lands.

Although the Armenians installed in the territories of the Erevan, Nakhichevan and Karabakh khanates were a minority in comparison with the Azerbaijanis living there, they were able, with the help of their protectors, to create an administrative and territorial unit known as the "Armenian region". This artificial territorial division in essence met the preconditions for implementing the policy of expelling Azerbaijanis from their lands and annihilating them. The concept of a "greater Armenia" began to be propagated. In order to "justify" the attempts to establish this fictive state on Azerbaijani land, large-scale programmes were conducted for the purpose of creating a false history of the Armenian people. The distortion of the history of Azerbaijan and of the Caucasus as a whole was an important part of these programmes.

Inspired by dreams of creating a "greater Armenia", the Armenian usurpers, not even concealing their intentions, carried out between 1905 and 1907 a series of large-scale bloody actions against Azerbaijanis. The atrocities of the Armenians began in Baku and then extended over the whole of Azerbaijan and Azerbaijani villages in the territory of present-day Armenia. Hundreds of settlements were destroyed and wiped from the face of the earth, and thousands of Azerbaijanis were barbarically killed. The organizers of these events, by preventing the truth of what had happened from being revealed and subjected to a proper political and legal assessment, and disguising their adventurist territorial claims, created a negative image of Azerbaijanis.

Taking advantage of the situation following the First World War and the February and October 1917 revolutions in Russia, the Armenians began to pursue the implementation of their plans under the banner of Bolshevism. Under the watchword of combating counter-revolutionary elements, in March 1918 the Baku commune began to implement a criminal plan aimed at eliminating Azerbaijanis from the whole of Baku province. The crimes perpetrated by Armenians in those days have imprinted themselves forever in the memory of the Azerbaijani

people. Solely because of their ethnic affiliation, thousands of peaceful Azerbaijanis were annihilated. The Armenians set fire to homes and burned people alive. They destroyed national architectural treasures, schools, hospitals, mosques and other facilities, and left the greater part of Baku in ruins. The genocide of the Azerbaijanis was carried out with particular cruelty in Baku, Shemakha and Guba districts and in the Karabakh, Zangezur, Nakhichevan, Lenkoran and other regions of Azerbaijan. In these areas, the civilian population was exterminated en masse, villages were burned and national cultural monuments were destroyed and obliterated.

After the proclamation of the Azerbaijani Democratic Republic, the events of March 1918 were at the centre of attention. To investigate the tragedy, on 15 July 1918 the Council of Ministers took the decision to establish a special commission of inquiry. The commission investigated the March tragedy, studying first the atrocities of the Armenians in Shemakha and the serious crimes committed by them in Erevan province. A special unit was set up in the Ministry of Foreign Affairs to inform the international community of the true course of events. In 1919 and 1920, the Azerbaijani Democratic Republic observed 31 March as a national day of mourning. This was in fact the first attempt to make a political assessment of the policy of genocide against Azerbaijanis and of the occupation of our lands for over a century. However, the demise of the Azerbaijani Democratic Republic left this work unfinished.

In 1920, taking advantage of the Sovietization of Transcaucasia for their own foul purposes, the Armenians declared Zangezur and a number of Azerbaijani lands to be part of the territory of the Armenian Soviet Socialist Republic. Subsequently, new means came to be used for the further expansion of the policy of deporting Azerbaijanis from these territories. To this end, the Armenians secured the adoption, on 23 December 1947 of a special decision by the Council of Ministers of the USSR on the resettlement of collective farm workers and other Azerbaijanis from the Armenian SSR to the Kura-Araks lowlands in the Azerbaijani SSR, and between 1948 and 1953 they were able to have mass deportation of Azerbaijanis from our historical lands conducted at the State level.

Beginning in the 1950s, the Armenian nationalists, with the aid of their protectors, began a frenzied campaign of psychological warfare against the Azerbaijani people. In books, magazines and newspapers disseminated periodically in the former Soviet Union, they sought to prove that the most treasured masterpieces of our national culture, classical heritage and architectural monuments belonged to the Armenian people. At the same time, they stepped up their efforts to project a negative image of Azerbaijanis throughout the world. Creating the image of the "unfortunate, unhappy Armenian people", they deliberately falsified the events that had taken place in the region at the beginning of the century: having perpetrated genocide against Azerbaijanis, they portrayed themselves as victims of genocide.

Our persecuted compatriots were driven en masse from the city of Erevan, most of whose population at the beginning of the century comprised Azerbaijanis, and from other districts of the Armenian SSR. The Armenians grossly violated the rights of Azerbaijanis, made it difficult for them to be educated in their mother tongue, and pursued a policy of repression. The

historical names of Azerbaijani villages were changed; old toponyms were replaced with modern names on a scale unprecedented in the history of toponymy.

The falsification of Armenian history to create the basis for raising Armenian youth in a spirit of chauvinism became State policy. Our rising generation, brought up in the spirit of the great humanistic ideals of Azerbaijani literature and culture, was targeted for persecution by this extremist Armenian ideology.

The policy of slandering the spiritual values, national honour and dignity of the Azerbaijani people formed the ideological basis for political and military aggression. In the Soviet press, Armenians distorted historical facts, misleading public opinion.

The leaders of the Azerbaijan Republic did not conduct a proper and timely assessment of the anti-Azerbaijani propaganda waged by Armenians making use of the opportunities afforded to them by the Soviet regime, and from the mid-1980s this propaganda was intensified.

The Azerbaijan Republic also did not make a correct political assessment of the expulsion of a hundred thousand Azerbaijanis from their historical lands during the initial phase of the so-called "Nagorny Karabakh conflict", which began in 1988. The anti-constitutional decision of the Armenians to incorporate the Nagorny Karabakh Autonomous Region of Azerbaijan into the Armenian SSR, effectively removing the Region from Azerbaijani jurisdiction through the Special Administering Committee established by Moscow, was met by our people with indignation, and Azerbaijanis were faced with the prospect of taking serious political action. Although the policy of seizing our lands was resolutely condemned at rallies held in the republic at the time, the Azerbaijani leaders remained passive. This resulted in the movement of troops into Baku in January 1990 to suppress the growing popular movement. Hundreds of Azerbaijanis were killed or wounded, mutilated and subjected to various forms of physical pressure.

In February 1992, the Armenians committed an unprecedented massacre of the population of the town of Khojaly. This bloody tragedy, which became known as the Khojaly genocide, involved the extermination or capture of thousands of Azerbaijanis; the town was razed to the ground.

As a result of the adventurist policy pursued by Armenian nationalist-separatists in Nagorny Karabakh, today more than one million of our citizens have been expelled from their homes by Armenian aggressors and forced to live in tents. During the Armenian occupation of 20 per cent of our territory, thousands of our fellow citizens have been killed or disabled.

All of Azerbaijan's tragedies that took place in the nineteenth and twentieth centuries and were accompanied by the seizure of land constituted various stages in the Armenians' deliberate and systematic policy of genocide against Azerbaijanis. Only one of these events - the March 1918 massacre - resulted in an attempt to make a political assessment of what was taking place. The Azerbaijan Republic, following the behest of history, perceives the need to make a political assessment of such acts of genocide and to bring

the decisions that the Azerbaijani Democratic Republic did not manage to implement fully to their logical conclusion.

In commemoration of all the tragic acts of genocide perpetrated against the Azerbaijani people, I hereby decide:

1. To proclaim 31 March as the Day of the Genocide of the Azerbaijanis;

2. To recommend that the Milli Majlis (Parliament) of the Azerbaijan Republic consider holding a special session devoted to the events involving genocide of the Azerbaijanis.

Heydar ALIYEV
President of the Azerbaijan Republic

Baku, 26 March 1998